In the Supreme Court of the United States
Motion to advance

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Supreme Court of the United States.

OCTOBER TERM, 1901.

No. 425.

GEORGE C. THOMAS,
Plaintiff in Error,

vs.

THE UNITED STATES.

IN ERROR TO THE CIRCUIT COURT OF THE UNITED STATES FOR THE SOUTHERN DISTRICT OF NEW YORK.

MOTION TO ADVANCE.

FRANK D. PAVEY,
Counsel for George C. Thomas.

C. H. Reisner, Walker and Ogden Street, N. Y.

Supreme Court of the United States.

OCTOBER TERM, 1901.

No. 650.

GEORGE C. THOMAS,
Plaintiff in Error,

AGAINST

THE UNITED STATES.

IN ERROR TO THE CIRCUIT COURT OF THE UNITED STATES FOR THE SOUTHERN DISTRICT OF NEW YORK.

MOTION TO ADVANCE.

The plaintiff in error, George C. Thomas, is a citizen of the United States of America and a resident of the City of New York, in the County and State of New York. He was arrested on the 2nd day of August, 1901, under an indictment which charged him with having sold and transferred certain shares of stock without placing on the memorandum of sale thereof the revenue stamps required by the provisions of Section 25, Schedule A, (entitled "Stamp Taxes"), of the "Act to provide ways and means to meet war expenditures, and for other purposes", approved June 13, 1898. He demurred to the indictment upon the ground that the facts alleged in said indictment did not constitute an infringement of, or a crime against the laws of the United States for the reason that the portions of the Act of Congress entitled "An Act to provide ways and means to meet war expenditures, and for other purposes", approved June 13, 1898, and known as the War Revenue Law of 1898, upon which the said indictment was based, were unconstitutional and void because

they were in violation of the Constitution of the United States, and, more particularly, in violation of Article 1, Section 2, Subdivision 3, thereof, which provides that "representatives and direct taxes shall be apportioned among the several States which may be included within this Union, according to their respective numbers"; and of Article 1, Section 9, Subdivision 4, thereof, which provides that "no capitation or other direct tax shall be laid, unless in proportion to the census or enumeration hereinbefore directed to be taken". His demurrer was overruled and he was granted leave to plead over. On the 12th of March, 1902, he pleaded not guilty. A trial was thereupon had before the Honorable EDWARD B. THOMAS, Judge, and a jury, and the plaintiff in error was adjudged guilty as charged in said indictment and sentenced to pay a fine of five hundred dollars and to be committed to jail until the sum should be paid or until he should be otherwise discharged by law. He was then paroled in the custody of counsel, and later gave his own recognizance for one thousand dollars. He then petitioned for a writ of error from the Supreme Court of the United States of America to the said Circuit Court of the United States for the Southern District of New York. The said writ of error was granted, and a transcript of the record, proceedings and papers in the cause was sent to the Supreme Court of the United States. The cause is now on the calendar for the October Term, 1901, and is numbered 650.

The said George C. Thomas, by his attorney, now moves this Court to advance this cause upon the docket, and to set it down for argument upon such day during the present term as may be convenient to the Court, for the following reasons:

I. The case presented here is a criminal case.

II. The plaintiff in error is a broker doing business in the City of New York. For almost four years last past he has been, and is paying to the Government large sums of money in taxes which he believes to be laid and collected under a law which is in violation of the Constitution of the United States. This law may be repealed in the near future, but even if it is repealed the plaintiff in error wishes to bring actions to recover back by due process of law the taxes heretofore paid by him, in the event of this court sustaining his contention that the portion of the War Revenue Law in question is unconstitutional. Many other brokers and other individuals

who are engaged in the business of buying and selling stock are interested in like manner in the early disposition of the case.

III. The case presented here raises questions of importance to the Government of the United States involving the constitutionality of certain portions of the Act of Congress entitled "An Act to provide ways and means to meet war expenditures, and for other purposes", approved June 13, 1898, and known as the War Revenue Law of 1898

Notice of this motion has been served on the Attorney-General and proof thereof filed with the Clerk of this Court.

Dated May 2nd, 1902.

FRANK D. PAVEY,
Counsel for George C. Thomas.